



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866.

JUL 08 2014

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
**Article No: 7005 3110 0000 5939 5929**

David Beitz  
Health and Safety Administrator  
Kawasaki Rail Car, Inc.  
29 Wells Avenue  
Yonkers, New York 10701

Re: Notice of Violation  
RCRA § 3007 Information Request  
Kawasaki Rail Car, Inc. - EPA I.D. No. NYD 982 278 160

Dear Mr. Beitz:

The U.S. Environmental Protection Agency (EPA) is charged with the protection of human health and the environment under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq.

Pursuant to RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), the EPA promulgated rules, regulations, and standards governing the handling and management of hazardous waste as set forth in 40 C.F.R. Parts 260-272. For the purposes of this Information Request and Notice of Violation, the hazardous waste regulations governing the generation of hazardous waste were promulgated in 1980 and amended by HSWA in 1984.

The State of New York is authorized by the EPA to conduct a hazardous waste program under Section 3006 of RCRA, 42 U.S.C. § 6926 and is authorized to enforce RCRA. The EPA has retained its authority to enforce the hazardous waste rules and regulations in the State of New York.

The Notice of Violation (NOV) portion of this letter (see Attachment I) is issued pursuant to Section 3008 of the Solid Waste Disposal Act, as amended by RCRA and HSWA, 42 U.S.C. §§ 6901, 6928. Issuance of this NOV and compliance with its terms does not preclude EPA from taking formal enforcement action against you and/or your company, including a monetary penalty, under § 3008 of RCRA, 42 U.S.C. § 6928, or any other applicable regulation or statute.

Pursuant to the provisions of Section 3007 of RCRA, 42 U.S.C. § 6927, EPA may require parties who handle or have handled hazardous waste to provide information relating to such wastes. Pursuant to the statutory provisions cited above, EPA hereby requires that you provide the information requested in Attachment II, using the instructions and definitions included in Attachment III. This information is necessary to determine the compliance status of Kawasaki Rail Car, Inc.

Please provide the information requested no later than thirty (30) calendar days from receipt of this letter. Requests for additional time must be justified. Requests for additional time must be made within ten (10) calendar days of receipt of this letter. The response must be signed by a responsible official or agent of your company, using the form in Attachment IV to this letter.

The response to the request in the attachment must be mailed to the following address:

Mr. Ronald Voelkel  
Environmental Scientist  
RCRA Compliance Branch  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency- Region 2  
290 Broadway, 21st Floor  
New York, NY 10007-1866

You may, if you so desire, assert a business confidentiality claim covering all or part of the information herein requested. The claim may be asserted by placing on (or attaching to) the information at the time it is submitted, a cover sheet, stamped or typed with the legend, or other suitable form of notice, such as "trade secret," "proprietary," or "company confidential". The claim should set forth the information requested in 40 Code of Federal Regulations (40 C.F.R.) Section 2.204(e)(4). Information covered by such a claim will be disclosed by EPA only to the extent permitted by, and by means of procedures set forth in, 40 C.F.R. Part 2. EPA will review the information to determine the extent of confidentiality of the information, and may, at its discretion, challenge the confidentiality claim pursuant to the procedures set forth at 40 C.F.R. Part 2. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

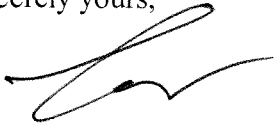
The response must be signed by a responsible official or agent of your company. Failure to respond to this letter truthfully, accurately, and in full within the time provided may subject you to sanction authorized by federal law including, but not limited to, a potential enforcement action pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928. Such enforcement action may include the assessment of a monetary penalty up to \$ 32,500 per day per violation. Please also note that all information you provide may be used in an administrative, civil judicial or criminal action.

This information request is not subject to the requirements of the Paperwork Reduction Act (PRA), as amended, 44 U.S.C. Part 3501 et seq.

For consistency, please provide your answers in a format which is keyed to the question numbers as outlined in Attachment II to this letter.

If you have any questions regarding this matter, please contact Mr. Ronald Voelkel at (212) 637-1470 or [voelkel.ronald@epa.gov](mailto:voelkel.ronald@epa.gov).

Sincerely yours,



Leonard Voo  
Chief, RCRA Compliance Branch  
Division of Enforcement and Compliance Assistance

Enclosures:	Attachment I	Notice of Violation
	Attachment II	Information Request
	Attachment III	Instructions & Definitions
	Attachment IV	Certification of Answers

cc: Russ Brauksieck, Chief  
Hazardous Waste Compliance Section  
New York State Dept. of Environmental Conservation

## ATTACHMENT I

### Notice of Violation

Kawasaki Rail Car, Inc.

EPA I.D. No. NYD 9820 278 160

On or about December 5, 2013, a duly authorized representative of the EPA conducted a compliance evaluation inspection of Kawasaki Rail Car, Inc. located at 29 Wells Avenue in Yonkers, NY. At the time of the inspection, your facility was found to be out of compliance with regulations applicable to generators of hazardous waste.

At the time of inspection, the following violations were observed:

1. Failure to make a determination as to whether or not a solid waste is a hazardous waste, in violation of 6 NYCRR § 372.2(a)(2).
2. Failure to mark containers holding hazardous waste with the words "Hazardous Waste" and with other words identifying their contents, in violation of 6 NYCRR § 373-2.9(d)(3).
3. Failure to clearly mark on each container the date upon which each period of accumulation began, in violation of 6 NYCRR § 372.2(a)(8)(iii)(d), § 373-1.1(d)(1)(iii)(c)(2).
4. Failure to keep containers holding hazardous waste closed except when necessary to add or remove waste, in violation of 6 NYCRR §372.2 (a)(8)(iii) and 6 NYCRR §373-3.9 (d)(1).
5. Failure keep containers holding hazardous waste in good condition and failure to transfer hazardous waste from a leaking container to a container that is in good condition, in violation of 6 NYCRR § 373-3.9(b).
6. Failure to maintain and operate the facility to minimize the possibility of a fire, exposure, or any unplanned sudden or non-sudden release of hazardous waste in violation of 40 CFR § 265.31

At the time of the inspection, several dozen containers of waste paints, paint thinners and solvents, enamels, lubricants, discarded gasoline, hardeners, epoxies, adhesives, and unknowns or unlabeled containers, including several marked "chemicals", were being haphazardly stored in the two buildings located in a rear lot of your facility. These containers appeared to have been stored for significant periods of time and in lieu of disposal; for example, containers of "Loctite" a lubricant manufactured by Henkel Technologies, had an expiration date of June 7, 2006; the MSDS for this product indicated that it is "extremely flammable" with a flashpoint of 0° F (-17.5° C), thus making it a hazardous waste; other containers had unreadable or no labels to identify their contents. In addition, many of the containers were extensively corroded, were punctured (and were therefore not closed), and several showed evidence of leakage.

7. Failure to inspect, at least weekly, area where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion and other factors in violation of 6 NYCRR § 373-3.9(e).

At the time of the inspection, it was stated by facility representatives that hazardous waste stored in the two buildings in the rear lot are occasionally “eyeballed”; this does not constitute regular weekly inspections of your hazardous waste storage areas for leaks or similar conditions; observations during the inspection of containers in poor conditions or of others that showed evidence of leakage indicates that weekly inspections were not conducted.

8. Failure to ship hazardous waste off-site within 180 days in violation of 6 NYCRR § 372.2(a)(8)(iii).

Containers found in the two buildings in the rear lot of your facility appeared to have been stored for considerable lengths of time; containers of the product Loctite had an expiration date of June 7, 2006, more than seven years prior to the CEI; other containers also had expiration dates that preceded the inspection.

9. Failure to make arrangements where appropriate to familiarize police, fire departments and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility, and possible evacuation routes, in violation of 6 NYCRR § 373-3.3(g)(1)(I).
10. Failure to attempt to make arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions or releases at the facility in violation of 6 NYCRR § 373-3.3(g)(1)(iv).

At the time of the inspection, Kawasaki could not produce copies of correspondence which indicate that it had contacted police, fire departments, emergency response teams, and local hospitals to familiarize them with the properties of hazardous waste handled at the Facility, and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

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## ATTACHMENT II

### RCRA § 3007 Information Request

Kawasaki Rail Car, Inc.

EPA I.D. No. NYD 9820 278 160

#### Question 1

In regards to the violations cited in the above Notice of Violation (Attachment I), please submit, within thirty (30) calendar days of the receipt of this correspondence, a response which may include: (1) a rebuttal of the noted violations; or (2) a description of the actions taken to correct the violations cited in items 1 through 10 and provide documentation, including photographs (where applicable), verifying that each violation has been corrected.

#### Question 2

At the time of the inspection, it was observed that Kawasaki was haphazardly storing hazardous waste in two buildings ("Building No. 1 and 2") in the rear lot of the facility. Subsequent to the inspection, we requested an inventory of the contents of the two buildings. However, your submittal did not include many of the wastes observed or noted in photographs taken during the inspection. For example, containers of 3M Edge Sealer 3950 (an "flammable" substance with an expiration date of 5/13/13, Hard Alkyd urethane gloss enamel, "chemical", lead batteries, and waste gasoline, were observed during the inspection but were not on the list you provided.

- a. Please submit a detailed inventory of all wastes that were contained in the two buildings in the rear lot of Kawasaki at the time of the December 2013 inspection. Include in your response (a) the name of the waste, e.g. 3M Edge Sealer; (b) the type of waste (e.g. enamel paint, lubricant, adhesive, spent solvent, waste gasoline etc.; (c) the number and size of each container and the total quantity of each waste; and (e) the length of time each of these wastes were being stored in the two buildings;
- b. Provide all analytical results and/or documentation used in determining whether each solid waste described in response to Question 2(a), above, is or is not a hazardous waste. If generator knowledge of the waste(s) was used to determine that the solid waste was not a hazardous waste, please provide a narrative which details the knowledge employed in making such a determination. If Safety Data Sheet data were used to make the hazardous waste/non-hazardous waste determinations, was it taken into account that the materials used could be contaminated by other sources?
- c. For each hazardous and each non-hazardous waste described in response to Question 2(a) and 2(b), above, please provide copies of all documentation, including hazardous waste manifests, for their off-site shipment/disposal or treatment.

**ATTACHMENT III**  
**Instructions and Definitions**

**RCRA § 3007 Information Request**

Kawasaki Rail Car, Inc.

EPA I.D. No. NYD 9820 278 160

In responding to this Request for Information, apply the following instructions and definitions:

1. The signatory should be an officer or agent who is authorized to respond on behalf of the company or facility.
2. A complete response must be made to each individual question in this request for information. Identify each answer with the number of the question to which it is addressed.
3. In preparing your response to each question, consult with all present and former employees and agents of the company or facility who you have reason to believe may be familiar with the matter to which the question pertains.
4. In answering each question, identify all contributing sources of information.
5. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and phone number and the reasons for your belief.
6. If you cannot provide a precise answer to any question, please approximate and state the reason for your inability to be specific.
7. For each document produced in response to this Request for Information, indicate on the document or in some other reasonable manner, the number of the question to which it applies.
8. If anything is deleted from a document produced in response to this Request for Information, state the reason for and the subject matter of the deletion.
9. If a document is requested but is not available, state the reason for its unavailability. In addition, identify any such document by author, date, subject matter, number of pages, and all recipients and their addresses.
10. The company and/or facility for the purposes of this Request for Information is Kawasaki Rail Car, Inc. located at 29 Wells Avenue, Yonkers, NY 10701.
11. Hazardous waste shall be defined for the purposes of this Request for Information as that term is defined in Section 1004(5) of RCRA, as amended, 42 U.S.C. Part 6903(5) and in 40 C.F.R., Section 261.3.

12. Manage shall be defined for the purposes of this Request for Information as a market, generate, treat, store, dispose or otherwise handle.
13. Standards applicable to transporters of hazardous waste shall be those as established in 40 C.F.R. Part 263.
14. Hazardous constituents shall be defined as those substances listed in 40 C.F.R. Part 261, Appendix VIII.



## ATTACHMENT IV

### Certification of Answers to Responses to Request for Information

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, that the submitted information is true, accurate and complete, and that all documents submitted herewith are complete and authentic, unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

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NAME (print or type)

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TITLE (print or type)

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SIGNATURE

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DATE

